

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, N.Y. 10007-1866**

Comment Period Open Until: 30 DAYS FROM DATE OF NOTICE

Action: Notice of Proposed Assessment of Class II Clean Water Act Section 311 Administrative Penalty and Opportunity to Comment

EPA is authorized under Section 311(b) (6) of the Clean Water Act, 33 U.S.C. §1321(b) (6), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under Section 311(b)(6) of the Clean Water Act, any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility who fails or refuses to comply with any regulation that has been issued under Section 311(j) of the Clean Water Act, 33 U.S.C. §1321(j) may be administratively assessed a civil penalty of up to \$157,500 by EPA. Class II proceedings under Section 311(b) (6) of the Clean Water Act are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (Consolidated Rules) found in 64 Federal Register 40176 et seq., (July 23, 1999).

The procedures by which the public may submit written comments on a proposed Class II penalty order or participate in a Class II penalty proceeding are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after issuance of public notice.

Pursuant to Section 311(b) (6) (C) of the Clean Water Act, 33 U.S.C. § 1321(b) (6) (C), EPA is providing public notice of the following proposed Class II administrative penalty assessment: Name and Address of Respondent: NEW YORK, SUSQUEHANA AND WESTERN RAILWAY CORP., COOPERSTOWN, NEW YORK. Location of Alleged Violations: NEW YORK, SUSQUEHANA AND WESTERN RAILWAY CORP., 47 BERGEN TURNPIKE, RIDGEFIELD PARK, NEW JERSEY. Nature of Alleged Violations: FAILURE TO PREPARE A SPILL PREVENTION, CONTROL AND COUNTERMEASURES ("SPCC") PLAN IN ACCORDANCE WITH 40 CODE OF FEDERAL REGULATIONS PART ("C.F.R.") § 112.7 AS REQUIRED BY 40 C.F.R. § 112.3(b); FAILURE TO IMPLEMENT AN SPCC PLAN AS REQUIRED BY 40 C.F.R. § 112.3(b); FAILURE TO REVIEW AND EVALUATE THE SPCC PLAN AT LEAST ONCE EVERY FIVE YEARS; FAILURE TO AMEND THE SPCC PLAN FOLLOWING CHANGES IN FACILITY DESIGN, CONSTRUCTION, OPERATION OR MAINTENANCE WHICH MATERIALLY AFFECTS THE FACILITY'S POTENTIAL FOR THE DISCHARGE OF OIL INTO OR UPON THE NAVIGABLE WATERS OF THE UNITED STATES OR ADJOINING SHORE LINES AS REQUIRED BY 40 C.F.R. § 112.5(a). Proposed Penalty: \$43,100. Name of Case: IN THE MATTER OF NEW YORK, SUSQUEHANA AND WESTERN RAILWAY CORP. Docket Number: CWA-02-2006-3811. Date Filed with Regional Hearing Clerk: AUGUST 21, 2006. Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:

**KAREN MAPLES
REGIONAL HEARING CLERK
REGION II
U.S. ENVIRONMENTAL PROTECTION AGENCY
290 BROADWAY - 16th Floor
NEW YORK, N.Y. 10007
(212) 637-3247**

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the Consolidated Rules, review the Complaint or other documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that may be held, should contact the Regional Hearing Clerk identified above. The public record for the proceeding is located in the EPA Regional Office at the above address, and the file will be open for public inspection during normal business hours. It is recommended that you telephone before visiting the EPA Region II office.

